

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DESEAN GAITHER,

Plaintiff,

-against-

DEPARTMENT OF CORRECTIONS, et al.,

Defendants.

21-CV-5461 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

On October 28, 2016, Plaintiff, while a pretrial detainee in the Anna M. Kross Center on Rikers Island, filed this action in the United States District Court for the Eastern District of New York. On June 22, 2021, the Eastern District of New York transferred the case to the Southern District of New York. (ECF No. 4.) But it appeared that Plaintiff was no longer in the custody of the New York City Department of Correction, and he had not provided an updated address or otherwise communicated with the Court or with the Eastern District of New York. By order dated August 3, 2021, the Court directed Plaintiff to provide an updated address within thirty days, and informed him that failure to comply would result in the action being dismissed without prejudice, under Rule 41(b) of the Federal Rules of Civil Procedure, for failure to prosecute. Plaintiff has not updated his address or otherwise communicated with the Court.

As Plaintiff has not complied with the Court's order, has failed to notify the Court of a change of mailing address, and has not initiated any further contact with the Court, written or otherwise, this action is dismissed without prejudice for failure to prosecute.

**CONCLUSION**

The Court dismisses this action without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: September 16, 2021  
New York, New York

/s/ Laura Taylor Swain

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LAURA TAYLOR SWAIN  
Chief United States District Judge